

30 “Initial Bond” has the meaning set forth in Section 9 of the Thirty-Eighth
31 Supplement.

32 “Master Ordinance” means Ordinance No. 000608-56A passed by
33 council on June 8, 2000.

34 “Paying Agent/Registrar” means U.S. Bank, N.A., or other financial
35 institution specified in the Paying Agent/Registrar Agreement.

36 “Previously Issued Parity Water/Wastewater Obligations” means the
37 outstanding (1) “City of Austin, Texas, Water and Wastewater System Variable
38 Rate Revenue Refunding Bonds, Series 2008”, together with certain regularly
39 scheduled payments under the Series 2008 Interest Rate Management
40 Agreement and the Series 2008 Liquidity Agreement (as these terms are defined
41 in Ordinance No. 20080306-053), (2) “City of Austin, Texas, Water and
42 Wastewater System Revenue Bonds, Series 2010”, (3) “City of Austin, Texas,
43 Water and Wastewater System Revenue Refunding Bonds, Series 2010B (Direct
44 Subsidy-Build America Bonds)”, (4) “City of Austin, Texas, Water and
45 Wastewater System Revenue Refunding Bonds, Series 2011”, (5) “City of
46 Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series
47 2012”, (6) “City of Austin, Texas, Water and Wastewater System Revenue
48 Refunding Bonds, Series 2013A”, (7) “City of Austin, Texas, Water and
49 Wastewater System Revenue Refunding Bonds, Series 2014”, (8) “City of
50 Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series
51 2015A”, (9) “City of Austin, Texas, Water and Wastewater System Revenue
52 Refunding Bonds, Taxable Series 2015B”, (10) “City of Austin, Texas, Water
53 and Wastewater System Revenue Refunding Bonds, Series 2016”, (11) “City of
54 Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2016A”,
55 (12) “City of Austin, Texas, Water and Wastewater System Revenue Refunding
56 Bonds, Series 2017”, (13) “City of Austin, Texas, Water and Wastewater
57 System Revenue Bonds, Series 2017A”, (14) “City of Austin, Texas Water and
58 Wastewater System Revenue Bonds, Series 2018”, (15) “City of Austin, Texas
59 Water and Wastewater System Revenue Bonds, Series 2019”, (16) “City of
60 Austin, Texas Water and Wastewater System Revenue Bonds, Series 2020A”,
61 (17) “City of Austin, Texas Water and Wastewater System Revenue Bonds,
62 Series 2020B”, (18) “City of Austin, Texas, Water and Wastewater System
63 Revenue Refunding Bonds, Series 2020C”, (19) “City of Austin, Texas, Water
64 and Wastewater System Revenue Bonds, Series 2020D”, (20) “City of Austin,
65 Texas, Water and Wastewater System Revenue Bonds, Series 2021A” and (21)
66 “City of Austin, Texas Water and Wastewater System Revenue Bonds, Series
67 2021B”.

68 “Prior Supplements” mean Ordinances Nos. 20080306-052, 20080306-
69 053, 20091217-004, 20101118-074, 20111103-051, 20120628-101, 20130620-
70 074, 20140522-040, 20150604-038, 20150604-039, 20160421-011, 20161020-
71 002, 20170622-016, 20171012-002, 20181018-004, 20191003-002, 20200123-
72 106, 20200123-107, 20200927-057, 20201029-041, 20201210-004 and
73 20201210-005 , authorizing the issuance of the Previously Issued Parity
74 Water/Wastewater Obligations.

75 “Program Notes” means the City of Austin, Texas Combined Utility
76 Systems Tax-Exempt Program Notes, consisting of a Commercial Paper Sub-
77 Series and a Direct Purchase Sub-Series, up to an aggregate principal amount of
78 \$400,000,000 to finance the costs of additions, improvements and extensions to
79 the City’s water and wastewater system and the City’s electric light and power
80 system.

81 “Refunded Bonds” means the principal amount of each of the series of
82 bonds identified in **Schedule I** attached to the Thirty-Eighth Supplement and
83 specified in the Bond Purchase Agreement.

84 “Refunded Notes” means the principal amount of the Program Notes as
85 specified in the Bond Purchase Agreement.

86 “Refunded Obligations” means collectively, the Refunded Bonds and the
87 Refunded Notes.

88 “Security Register” shall have the meaning given in Section 5 of the
89 Thirty-Eighth Supplement.

90 “Thirty-Eighth Supplement” means this Ordinance No. 20200917-057
91 authorizing the issuance of the Bonds.

92 “Underwriters” means the investment banking firms purchasing the initial
93 offering of the Bonds, as described in the Bond Purchase Agreement.

94 The terms used in the Thirty-Eighth Supplement and not otherwise
95 defined shall have the meanings given in the Master Ordinance or the Prior
96 Supplements.

97 In accordance with the provisions of Chapter 1207, the City is authorized
98 to issue refunding bonds and deposit the proceeds of sale directly with any place
99 of payment for the Refunded Obligations, or other authorized depository, and
100 this deposit, when made in accordance with Chapter 1207, shall constitute the
101 making of firm banking and financial arrangements for the discharge and final
102 payment of the Refunded Obligations.

103 In accordance with the provisions of Chapter 1371, the City has
104 authorized by ordinance and provided for the issuance and sale of the Program
105 Notes; and council finds that the refunding of the Program Notes for the
106 purposes of converting the Refunded Notes into long-term fixed rate debt of the
107 City and restructuring the debt payable from the revenues of the
108 Water/Wastewater System is in the best interest of the City, and the manner in
109 which the refunding of the Refunded Notes is being executed does not make it
110 practicable to make the determinations otherwise required by Section
111 1207.008(a)(2), Texas Government Code.

112 In accordance with the provisions of Chapter 1207, council is delegating
113 to the Pricing Officer (as defined in Section 4 of the Thirty-Eighth Supplement)
114 the authority to establish the terms and details related to the issuance and sale of
115 the Bonds including: (i) the principal amount of the Refunded Bonds and the
116 Refunded Notes to be refunded; (ii) the form and designation of the Bonds; (iii)
117 the principal amount of the Bonds and the amount of the Bonds to mature in
118 each year; (iv) the dates, price, interest rates, interest payment dates, principal
119 payment dates, and redemption features of the Bonds; and (v) any other details
120 relating to the issuance, sale, delivery, and/or exchange of the Bonds, all within
121 certain specified parameters set forth in the Thirty-Eighth Supplement. In the
122 Bond Purchase Agreement, the Pricing Officer shall determine, based upon
123 advice provided by the City's financial advisor, that acceptance of the purchase
124 price for the Bonds is in the best interests of the City.

125 The Refunded Notes should be refunded and refinanced into long term
126 obligations at this time to enable the City's Water and Wastewater Department
127 to continue utilizing its allocated share of Program Notes and it is a public
128 purpose and in the best interests of the City to refund the Refunded Bonds in
129 order to achieve a present value debt service savings. The savings resulting
130 from the refunding of the Refunded Bonds shall be included in a certificate to be
131 executed by the Pricing Officer, all in accordance with the provisions of Section
132 1207.007, Texas Government Code, and Section 4 of the Thirty-Eighth
133 Supplement.

134 The Bonds shall be secured by a lien on, and pledge of, the Net Revenues
135 on parity with the outstanding "Parity Water/Wastewater Obligations" issued in
136 accordance with and under the terms and provisions of the Master Ordinance
137 and the Prior Supplements. There are no Previously Issued Separate Lien
138 Obligations outstanding. Council affirms that the Master Ordinance provides
139 that no additional revenue obligations shall be issued on parity with the Prior
140 Subordinate Lien Obligations.

141 **SECTION 2: AUTHORIZATION – DESIGNATION – PRINCIPAL**
142 **AMOUNT - PURPOSE.** Revenue bonds of the City shall be and are
143 authorized to be issued in an amount not to exceed the maximum aggregate
144 principal amount determined as provided in Section 4 of the Thirty-Eighth
145 Supplement and designated the “CITY OF AUSTIN, TEXAS, WATER AND
146 WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2021”
147 (the “Bonds”), for the purpose of refinancing and refunding the Refunded
148 Obligations identified in the Bond Purchase Agreement, and paying costs of
149 issuance, in conformity with the Constitution and laws of the State of Texas,
150 including Chapter 1207.

151 **SECTION 3: FULLY REGISTERED OBLIGATIONS–**
152 **AUTHORIZED DENOMINATIONS – STATED MATURITIES - DATE.**
153 The Bonds shall be issued as fully registered obligations, without coupons, shall
154 be dated September 25, 2021, and shall be in denominations of \$5,000 or any
155 integral multiple thereof (within a Stated Maturity), shall be numbered
156 consecutively from R-1 upward (except as provided in Section 9 of the Thirty-
157 Eighth Supplement) and shall become due and payable on May 15 or
158 November 15 in each of the years and in principal amounts (the “Stated
159 Maturities”) and bear interest at the rate(s) per annum in accordance with the
160 details of the Bonds as set forth in the Bond Purchase Agreement.

161 The Bonds shall bear interest on the unpaid principal amounts from the
162 date and at the rate(s) per annum as specified in the Bond Purchase Agreement
163 (calculated on the basis of a 360-day year of twelve 30-day months). Interest on
164 the Bonds shall be payable on May 15 and November 15 in each year,
165 commencing on the date specified in the Bond Purchase Agreement, until
166 maturity or prior redemption.

167 **SECTION 4: DELEGATION OF AUTHORITY TO PRICING**
168 **OFFICER.**

169 (a) As authorized by Section 1207.007, Texas Government Code, the
170 City Manager or Chief Financial Officer of the City (any one of them, the
171 “Pricing Officer”) is authorized to act on behalf of the City in selling and
172 delivering the Bonds and carrying out the other procedures specified in the
173 Thirty-Eighth Supplement, including selection of the Refunded Notes to be
174 refunded, the specified maturities or series in whole or in part of the Refunded
175 Bonds to be refunded, determining the aggregate principal amount of the Bonds,
176 the date of the Bonds, any additional or different designation or title by which
177 the Bonds shall be known, the price at which the Bonds will be sold, the years in
178 which the Bonds will mature, the principal amount to mature in each of such
179 years, the rate of interest to be borne by each such maturity, the first interest

180 payment date, the price and terms upon and at which the Bonds shall be subject
181 to redemption prior to maturity at the option of the City, as well as any
182 mandatory sinking fund redemption provisions, the designation of a paying
183 agent/registrar, if different from the Paying Agent/Registrar, and all other
184 matters relating to the issuance, sale, and delivery of the Bonds, all of which
185 shall be specified in the Bond Purchase Agreement, provided that:

186 (i) the aggregate original principal amount of the Bonds shall not
187 exceed \$298,000,000;

188 (ii) the Bonds shall bear interest at a rate not greater than 15.0% per
189 annum and the net effective interest rate (as defined in Chapter 1204) for the
190 Bonds shall not exceed 15.0%;

191 (iii) with respect to the Bonds issued to refund the Refunded Bonds, the
192 refunding must produce a net present value debt service savings of at least
193 4.25%, net of any contribution by the City; and

194 (iv) the maximum maturity for the Bonds shall not extend beyond
195 November 15, 2051.

196 The execution of the Bond Purchase Agreement shall evidence the sale
197 date of the Bonds by the City to the Underwriters.

198 (b) In establishing the aggregate principal amount of the Bonds, the
199 Pricing Officer shall establish an amount not exceeding the amount authorized
200 in Subsection (a)(i) above, which shall be sufficient in amount to provide for the
201 purposes for which the Bonds are authorized and to pay costs of issuing the
202 Bonds. This delegation shall expire if not exercised by the Pricing Officer on or
203 prior to March 31, 2022. The Bonds shall be sold by negotiated sale to the
204 Underwriters, at the price, and with and subject to the terms, as set forth in the
205 Bond Purchase Agreement.

206 (c) The Pricing Officer shall not execute the Bond Purchase Agreement
207 unless the Underwriters have confirmed to the Pricing Officer that the
208 Underwriters have made disclosure filings to the Texas Ethics Commission in
209 accordance with Section 2252.908, Texas Government Code. Within 30 days of
210 receipt of the disclosure filings from the Underwriters, the City will submit a
211 copy of the disclosure filings to the Texas Ethics Commission.

212 **SECTION 5: TERMS OF PAYMENT - PAYING AGENT**
213 **/REGISTRAR.** The principal of, premium, if any, and the interest on the
214 Bonds, due and payable by reason of maturity, redemption or otherwise, shall be
215 payable only to the Holders appearing on the registration and transfer books

216 maintained by the Paying Agent/Registrar and the payment shall be in any coin
217 or currency of the United States of America, which at the time of payment is
218 legal tender for the payment of public and private debts, and shall be without
219 exchange or collection charges to the Holders.

220 The selection and appointment of the Paying Agent/Registrar for the
221 Bonds is approved and confirmed. Books and records relating to the
222 registration, payment, exchange and transfer of the Bonds (the “Security
223 Register”) shall at all times be kept and maintained on behalf of the City by the
224 Paying Agent/Registrar, all as provided in the Thirty-Eighth Supplement, in
225 accordance with the terms and provisions of a “Paying Agent/Registrar
226 Agreement,” substantially in the form of paying agent agreements previously
227 approved by council in connection with the issuance of public securities, and
228 such reasonable rules and regulations as the Paying Agent/Registrar and the City
229 may prescribe. The Pricing Officer is authorized to execute and deliver this
230 Agreement in connection with the delivery of the Bonds. The City covenants to
231 maintain and provide a Paying Agent/Registrar at all times until the Bonds are
232 paid and discharged, and any successor Paying Agent/Registrar shall be a bank,
233 trust company, financial institution or other entity qualified and authorized to
234 serve in such capacity and perform the duties and services of Paying
235 Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds,
236 the City agrees to promptly cause a written notice of the change to be sent to
237 each Holder by United States Mail, first class postage prepaid, which notice
238 shall also give the address of the new Paying Agent/Registrar.

239 If required by law, the Pricing Officer shall not execute the Paying
240 Agent/Registrar Agreement unless the Paying Agent/Registrar has confirmed to
241 the Pricing Officer that it has made disclosure filings to the Texas Ethics
242 Commission in accordance with Section 2252.908, Texas Government Code.
243 Within 30 days of receipt of the disclosure filings from the Paying
244 Agent/Registrar, the City will submit a copy of the disclosure filings to the
245 Texas Ethics Commission.

246 Principal of and premium, if any, on the Bonds shall be payable at the
247 Stated Maturities or redemption of the Bonds, only upon presentation and
248 surrender of the Bonds to the Paying Agent/Registrar at its designated office in
249 Dallas, Texas (the “Designated Payment/Transfer Office”). Interest on the
250 Bonds shall be paid to the Holders whose names appear in the Security Register
251 at the close of business on the Record Date (the last Business Day of the month
252 next preceding each interest payment date), and interest shall be paid by the
253 Paying Agent/Registrar (i) by check sent United States Mail, first class postage
254 prepaid, to the address of the Holder recorded in the Security Register or (ii) by
255 such other method, acceptable to the Paying Agent/Registrar, requested by, and

256 at the risk and expense of, the Holder. If the date for the payment of the
257 principal of or interest on the Bonds is a day other than a Business Day, then the
258 date for payment shall be the next succeeding Business Day; and payment on
259 that date shall have the same force and effect as if made on the original date
260 payment was due.

261 In the event of a non-payment of interest on one or more maturities on a
262 scheduled payment date, and for 30 days thereafter, a new record date for the
263 interest payment for the maturity or maturities (a "Special Record Date") will be
264 established by the Paying Agent/Registrar, if and when funds for the payment of
265 interest have been received from the City. Notice of the Special Record Date
266 and of the scheduled payment date of the past due interest (which shall be
267 15 days after the Special Record Date) shall be sent at least five Business Days
268 prior to the Special Record Date by United States Mail, first class postage
269 prepaid, to the address of each Holder of such maturity or maturities appearing
270 on the Security Register at the close of business on the last Business Day next
271 preceding the date of mailing of the notice.

272 **SECTION 6: REGISTRATION-TRANSFER-EXCHANGE OF**
273 **BONDS - PREDECESSOR BONDS.** The Paying Agent/Registrar shall
274 obtain, record, and maintain in the Security Register the name and address of
275 each registered owner of the Bonds issued under the provisions of the Thirty-
276 Eighth Supplement. Any Bond may, in accordance with its terms and the terms
277 of the Thirty-Eighth Supplement, be transferred or exchanged for Bonds of other
278 authorized denominations upon the Security Register by the Holder, in person or
279 the Holder's authorized agent, upon surrender of the Bond to the Paying
280 Agent/Registrar for cancellation, accompanied by a written instrument of
281 transfer or request for exchange executed by the Holder or the Holder's
282 authorized agent, in form satisfactory to the Paying Agent/ Registrar.

283 Upon surrender for transfer of any Bond (other than the Initial Bond(s)
284 authorized in Section 9 of the Thirty-Eighth Supplement) at the Designated
285 Payment/Transfer Office of the Paying Agent/Registrar, the Paying
286 Agent/Registrar shall register and deliver, in the name of the designated
287 transferee(s), one or more new Bonds executed on behalf of, and furnished by,
288 the City of authorized denominations and having the same Stated Maturity and
289 of a like aggregate principal amount as the Bond or Bonds surrendered for
290 transfer.

291 At the option of the Holder, Bonds (other than the Initial Bond(s)
292 authorized in Section 9 of the Thirty-Eighth Supplement) may be exchanged for
293 other Bonds of authorized denominations and having the same Stated Maturity,
294 bearing the same rate of interest and of like aggregate principal amount as the

295 Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged
296 at the Designated Payment/Transfer Office of the Paying Agent/Registrar.
297 Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar
298 shall register and deliver new Bonds, executed on behalf of, and furnished by,
299 the City, to the Holder requesting the exchange.

300 All Bonds issued upon any transfer or exchange of Bonds shall be
301 delivered at the Designated Payment/Transfer Office of the Paying
302 Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the
303 Holder and, upon the delivery, the same shall be valid obligations of the City,
304 evidencing the same obligation to pay, and entitled to the same benefits under
305 the Thirty-Eighth Supplement, as the Bonds surrendered for transfer or
306 exchange.

307 All transfers or exchanges of Bonds under this Section shall be made
308 without expense or service charge to the Holder, except as otherwise provided in
309 the Thirty-Eighth Supplement, and except that the Paying Agent/Registrar shall
310 require payment by the Holder requesting the transfer or exchange of any tax or
311 other governmental charges required to be paid with respect to such transfer or
312 exchange.

313 Bonds canceled by reason of an exchange or transfer under the provisions
314 of the Thirty-Eighth Supplement are defined to be "Predecessor Bonds,"
315 evidencing all or a portion, as the case may be, of the same obligation to pay
316 evidenced by the Bond or Bonds registered and delivered in the exchange or
317 transfer. Additionally, the term "Predecessor Bonds" shall include any
318 mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has
319 been issued, registered and delivered under Section 19 of the Thirty-Eighth
320 Supplement and the new replacement Bond shall be deemed to evidence the
321 same obligation as the mutilated, lost, destroyed, or stolen Bond.

322 Neither the City nor the Paying Agent/Registrar shall be required to
323 transfer or exchange any Bond called for redemption, in whole or in part, within
324 45 days of the date fixed for redemption of the Bond; provided, however, this
325 limitation of transfer shall not be applicable to an exchange by the Holder of the
326 unredeemed balance of a Bond called for redemption in part.

327 The City agrees to deliver to the Paying Agent/Registrar one initial Bond,
328 numbered T-1, as provided in Section 9 of the Thirty-Eighth Supplement, and
329 registered to the representative of the Underwriters named in the Bond Purchase
330 Agreement following the approval by the Attorney General of the State and the
331 registration by the Comptroller of Public Accounts.

332 **SECTION 7: BOOK-ENTRY-ONLY TRANSFERS AND**
333 **TRANSACTIONS.** Notwithstanding the provisions contained in Sections 4, 5
334 and 6 of the Thirty-Eighth Supplement relating to the payment, and
335 transfer/exchange of the Bonds, the City approves and authorizes the use of the
336 “Book-Entry-Only” securities clearance, settlement and transfer system
337 provided by The Depository Trust Company (“DTC”), a limited purpose trust
338 company organized under the laws of the State of New York, in accordance with
339 the operational arrangements referenced in the Blanket Issuer Letter of
340 Representation, by and between the City and DTC (the “Depository
341 Agreement”).

342 Pursuant to the Depository Agreement and the rules of DTC, the Bonds
343 shall be deposited with DTC, who shall hold the Bonds for its participants (the
344 “DTC Participants”). While the Bonds are held by DTC under the Depository
345 Agreement, the Holder of the Bonds on the Security Register for all purposes,
346 including payment and notices, shall be Cede & Co., as nominee of DTC,
347 notwithstanding the ownership of each actual purchaser or owner of each Bond
348 (the “Beneficial Owners”) being recorded in the records of DTC and DTC
349 Participants.

350 In the event DTC determines to discontinue serving as securities
351 depository for the Bonds or otherwise ceases to provide book-entry clearance
352 and settlement of securities transactions in general or the City determines that
353 DTC is incapable of properly discharging its duties as securities depository for
354 the Bonds, the City covenants and agrees with the Holders of the Bonds to cause
355 Bonds to be printed in definitive form and provide for the Bond certificates to be
356 issued and delivered to DTC Participants and Beneficial Owners, as the case
357 may be. The Bonds in definitive form shall be assigned, transferred and
358 exchanged on the Security Register maintained by the Paying Agent/Registrar
359 and payment of the Bonds not held by DTC under the Depository Agreement
360 shall be made in accordance with the provisions of Sections 4, 5 and 6 of the
361 Thirty-Eighth Supplement.

362 **SECTION 8: EXECUTION - REGISTRATION.** The Bonds shall be
363 executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal
364 reproduced or impressed on the Bonds and countersigned by the City Clerk.
365 The signature of the officers on the Bonds may be manual or facsimile. Bonds
366 bearing the manual or facsimile signatures of individuals who are or were the
367 proper officers of the City on the Bond Date shall be deemed to be executed on
368 behalf of the City, notwithstanding that those individuals or either of them shall
369 cease to hold the offices at the time of delivery of the Bonds to the Underwriters
370 and with respect to Bonds delivered in subsequent exchanges and transfers, all
371 as authorized and provided in Chapter 1201.

372 No Bond shall be entitled to any right or benefit under the Thirty-Eighth
373 Supplement, or be valid or obligatory for any purpose, unless there appears on
374 the Bond either a certificate of registration substantially in the form provided in
375 the FORM OF BOND, manually executed by the Comptroller of Public
376 Accounts of the State of Texas or his or her authorized agent, or a certificate of
377 registration substantially in the form provided in the FORM OF BOND,
378 manually executed by an authorized officer, employee or representative of the
379 Paying Agent/Registrar, and either certificate upon any Bond signed shall be
380 conclusive evidence, and the only evidence, that the Bond has been certified,
381 registered and delivered.

382 SECTION 9: **INITIAL BOND.** The Bonds shall be initially issued as a
383 single fully registered bond in the total principal amount specified in the Bond
384 Purchase Agreement with principal installments to become due and payable as
385 provided in the Bond Purchase Agreement and numbered T-1 (the “Initial
386 Bond”). The Initial Bond shall be registered in the name of the representative of
387 the Underwriters named in the Bond Purchase Agreement or its designee. The
388 Initial Bond shall be submitted to the Office of the Attorney General of the State
389 of Texas for approval, certified and registered by the Office of the Comptroller
390 of Public Accounts of the State of Texas and delivered to the Underwriters. Any
391 time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant
392 to written instructions from the Underwriters, or their designee, shall cancel the
393 Initial Bond and deliver and exchange for the Initial Bond definitive Bonds of
394 authorized denominations, Stated Maturities, principal amounts and bearing
395 applicable interest rates, and numbered consecutively from R-1 upward, for
396 transfer and delivery to the Holders named at the addresses identified for the
397 Holders; all pursuant to and in accordance with such written instructions from
398 the Underwriters, or their designee, and any other information and
399 documentation as the Paying Agent/Registrar may reasonably require.

400 SECTION 10: **FORMS.** The Bonds, the Registration Certificate of the
401 Comptroller of Public Accounts of the State of Texas, the Certificate of
402 Registration, and the form of Assignment to be printed on each of the Bonds,
403 shall be substantially in the forms set forth in the FORM OF BOND set forth in
404 **Exhibit A** to the Thirty-Eighth Supplement, with appropriate insertions,
405 omissions, substitutions, and other variations as are permitted or required by the
406 Thirty-Eighth Supplement, and may have such letters, numbers, or other marks
407 of identification (including identifying numbers and letters of the Committee on
408 Uniform Securities Identification Procedures of the American Bankers
409 Association) and any other legends and endorsements (including insurance
410 legends in the event the Bonds, or any maturities of the Bonds, are purchased
411 with insurance and any reproduction of an opinion of counsel) as may be

412 established by the City or determined by the officers executing the Bonds as
413 evidenced by their execution of the Bonds. Any portion of the text of any Bond
414 may be set forth on the reverse of the Bond, with an appropriate reference on the
415 face of the Bond. The FORM OF BOND set forth in **Exhibit A** to the Thirty-
416 Eighth Supplement will be revised to reflect the terms of the Bond Purchase
417 Agreement and the sale of the Bonds to the Underwriters.

418 The definitive Bonds and the Initial Bond(s) shall be printed,
419 lithographed, or engraved, typewritten, photocopied or otherwise reproduced in
420 any other similar manner, all as determined by the officers executing the Bonds
421 as evidenced by their execution of the Bonds.

422 **SECTION 11: CRITERIA FOR ISSUANCE OF PARITY WATER/
423 WASTEWATER OBLIGATIONS.** The City has provided certain criteria and
424 established certain covenants and agreements in relation to the issuance of Parity
425 Water/Wastewater Obligations of the Water/Wastewater System pursuant to the
426 Master Ordinance and Prior Supplements. The Thirty-Eighth Supplement
427 provides for the authorization, issuance, sale, delivery, form, characteristics,
428 provisions of payment, and security of the Bonds which are Parity
429 Water/Wastewater Obligations. The Master Ordinance is incorporated by
430 reference and made a part of the Thirty-Eighth Supplement for all purposes,
431 except to the extent modified and supplemented by the Prior Supplements and
432 the Thirty-Eighth Supplement, and the Bonds are declared to be Parity
433 Water/Wastewater Obligations under the Master Ordinance and Prior
434 Supplements. The City determines that it will have sufficient funds to meet the
435 financial obligations of the Water/Wastewater System, including sufficient Net
436 Revenues to pay the Annual Debt Service Requirements of the Bonds and the
437 Previously Issued Parity Water/Wastewater Obligations and to meet all financial
438 obligations of the City relating to the Water/Wastewater System.

439 **SECTION 12: PLEDGE.** The Net Revenues of the Water/Wastewater
440 System are pledged to the payment of the Bonds, and the Bonds, together with
441 the Prior Subordinate Lien Obligations and the Previously Issued Parity
442 Water/Wastewater Obligations currently Outstanding, shall be equally and
443 ratably secured by a parity lien on and pledge of the Net Revenues of the
444 Water/Wastewater System in accordance with the terms of the Master Ordinance
445 and the Thirty-Eighth Supplement. Additionally, the Bonds and the Previously
446 Issued Parity Water/Wastewater Obligations shall be equally and ratably secured
447 by a lien on the funds, if any, deposited to the credit of the Debt Service Fund in
448 accordance with the terms of the Master Ordinance, the Prior Supplements and
449 the Thirty-Eighth Supplement. The Parity Water/Wastewater Obligations, and
450 the interest on the Parity Water/Wastewater Obligations, shall constitute a lien
451 on the Net Revenues of the Water/Wastewater System and be valid and binding

452 and fully perfected from and after the date of adoption of the Thirty-Eighth
453 Supplement without physical delivery or transfer of control of the Net Revenues,
454 the filing of the Thirty-Eighth Supplement or any other act, all as provided in
455 Chapter 1208. The owners of the Parity Water/Wastewater Obligations shall
456 never have the right to demand payment out of funds raised or to be raised by
457 taxation, or from any source other than specified in the Master Ordinance, the
458 Prior Supplements and the Thirty-Eighth Supplement.

459 Chapter 1208 applies to the issuance of the Bonds and the pledge of the
460 Net Revenues of the Water/Wastewater System granted by the City under this
461 Section 12, and the pledge is valid, effective and perfected. If Texas law is
462 amended at any time while the Bonds are Outstanding such that the pledge of
463 the Net Revenues of the Water/Wastewater System granted by the City under
464 this Section 12 is to be subject to the filing requirements of Chapter 9, then to
465 preserve to the registered owners of the Bonds the perfection of the security
466 interest in the pledge, the City agrees to take measures as it determines are
467 reasonable and necessary under Texas law to comply with the applicable
468 provisions of Chapter 9, and enable a filing to perfect the security interest in the
469 pledge to occur.

470 **SECTION 13: DEBT SERVICE FUND.** By reason of the issuance of
471 the Bonds, the City need not establish any special accounts within the Debt
472 Service Fund and following the delivery of the Bonds, the City agrees and
473 covenants that in addition to the deposits for the payment of the Previously
474 Issued Parity Water/Wastewater Obligations there shall be deposited to the
475 credit of the Debt Service Fund an amount equal to one hundred percent (100%)
476 of the amount required to fully pay the interest on and principal of the Bonds
477 falling due on or before each maturity, mandatory redemption date and interest
478 payment date, and such deposits shall be made in substantially equal monthly
479 amounts on or before the 14th day of each month beginning on or before the
480 14th day of the month next following the month the Bonds are delivered to the
481 Underwriters.

482 The required monthly deposits to the Debt Service Fund for the payment
483 of principal of and interest on the Bonds shall continue to be made in the manner
484 provided in this Section until such time as (i) the total amount on deposit in the
485 Debt Service Fund is equal to the amount required to fully pay and discharge all
486 Parity Water/Wastewater Obligations then Outstanding or (ii) the Bonds are no
487 longer outstanding, *i.e.*, fully paid as to principal and interest or all the Bonds
488 have been refunded.

489 Any accrued interest received from the Underwriters shall be deposited in
490 the Debt Service Fund, and shall be taken into consideration and reduce the

491 amount of the monthly deposits that would otherwise be required to be deposited
492 to the credit of the Debt Service Fund from the Net Revenues of the
493 Water/Wastewater System.

494 **SECTION 14: RESERVE FUND.** In accordance with the provisions of
495 the Prior Supplements authorizing the issuance of certain of the Previously
496 Issued Water/Wastewater Obligations, the Required Reserve Amount is funded
497 with cash and Credit Facilities originally issued by Ambac Assurance
498 Corporation and XL Capital Assurance Inc.

499 Acting in accordance with the provisions of the Master Ordinance,
500 specifically Section 8 of the Master Ordinance, the City is exercising the
501 authority to determine in a Supplement that it is not necessary for the Bonds to
502 be secured by the Reserve Fund established for the benefit of the owners of
503 certain series of the Previously Issued Parity Water/Wastewater Obligations.
504 The City shall not make deposits of any Reserve Fund Obligations to the credit
505 of the Reserve Fund for the benefit of the Bonds, and the City shall not be
506 required, but reserves the right in the future, to make deposits of Reserve Fund
507 Obligations to the credit of the Reserve Fund with respect to the Bonds.

508 Furthermore, in accordance with Section 10(d) of the Master Ordinance,
509 council finds that the Gross Revenues will be sufficient to meet the obligations
510 of the Water/Wastewater System, including sufficient Net Revenues to satisfy
511 the Annual Debt Service Requirements of Parity Water/Wastewater Obligations
512 currently Outstanding and the financial obligations of the City under any Credit
513 Facility entered into with the Credit Facility providers.

514 **SECTION 15: PAYMENT OF BONDS.** On or before the first
515 scheduled interest payment date, and on or before each subsequent interest
516 payment date and principal payment date while any Bond is Outstanding, the
517 City shall cause an amount to be transferred to the Paying Agent/Registrar in
518 immediately available funds from the Debt Service Fund sufficient to pay the
519 interest on and the principal amount of the Bonds, as shall become due on each
520 payment date, respectively, at maturity or by redemption prior to maturity. The
521 Paying Agent/Registrar shall destroy all paid Bonds and furnish the City with an
522 appropriate certificate of cancellation or destruction.

523 **SECTION 16: COVENANTS TO MAINTAIN TAX-EXEMPT**
524 **STATUS.**

525 The City covenants to refrain from any action which would adversely
526 affect, or to take any action to assure, the treatment of the Bonds as obligations
527 described in section 103 of the Code, the interest on which is not includable in

528 the "gross income" of the holder for purposes of federal income taxation. In
529 furtherance thereof, the City covenants as follows:

530 (a) to take any action to assure that no more than 10 percent of the
531 proceeds of the Bonds or the projects financed therewith (less amounts
532 deposited to a reserve fund, if any) are used for any "private business use", as
533 defined in section 141(b)(6) of the Code or, if more than 10 percent of the
534 proceeds are so used, that amounts, whether or not received by the City, with
535 respect to such private business use, do not, under the terms of the Thirty-Eighth
536 Supplement or any underlying arrangement, directly or indirectly, secure or
537 provide for the payment of more than 10 percent of the debt service on the
538 Bonds, in contravention of section 141(b)(2) of the Code;

539 (b) to take any action to assure that in the event that the "private
540 business use" described in subsection (a) hereof exceeds 5 percent of the
541 proceeds of the Bonds or the projects financed therewith (less amounts
542 deposited into a reserve fund, if any) then the amount in excess of 5 percent is
543 used for a "private business use" which is "related" and not "disproportionate",
544 within the meaning of section 141(b)(3) of the Code, to the governmental use;

545 (c) to take any action to assure that no amount which is greater than the
546 lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts
547 deposited into a reserve fund, if any), is directly or indirectly used to finance
548 loans to persons, other than state or local governmental units, in contravention of
549 section 141(c) of the Code;

550 (d) to refrain from taking any action which would otherwise result in
551 the Bonds being treated as "private activity bonds" within the meaning of
552 section 141(a) of the Code;

553 (e) to refrain from taking any action that would result in the Bonds
554 being "federally guaranteed" within the meaning of section 149(b) of the Code;

555 (f) to refrain from using any portion of the proceeds of the Bonds,
556 directly or indirectly, to acquire or to replace funds which were used, directly or
557 indirectly, to acquire investment property (as defined in section 148(b)(2) of the
558 Code) which produces a materially higher yield over the term of the Bonds,
559 other than investment property acquired with --

560 (1) proceeds of the Bonds invested for a reasonable temporary
561 period, until such proceeds are needed for the purpose for which the
562 Bonds are issued,

563 (2) amounts invested in a bona fide debt service fund, within the
564 meaning of section 1.148-1(b) of the Treasury Regulations, and

565 (3) amounts deposited in any reasonably required reserve or
566 replacement fund to the extent such amounts do not exceed 10 percent of
567 the proceeds of the Bonds;

568 (g) to otherwise restrict the use of the proceeds of the Bonds or
569 amounts treated as proceeds of the Bonds, as may be necessary, so that the
570 Bonds do not otherwise contravene the requirements of section 148 of the Code
571 (relating to arbitrage);

572 (h) to refrain from using the proceeds of the Bonds or the proceeds of
573 any prior bonds to pay debt service on another issue more than ninety (90) days
574 after the issuance of the Bonds in contravention of section 149 of the Code
575 (relating to advance refundings); and

576 (i) to pay to the United States of America at least once during each
577 five-year period (beginning on the date of initial delivery of the Bonds) an
578 amount that is at least equal to 90 percent of the "excess earnings", within the
579 meaning of section 148(f) of the Code, and to pay to the United States of
580 America, not later than 60 days after the Bonds have been paid in full, 100
581 percent of the amount then required to be paid as a result of Excess Earnings
582 under section 148(f) of the Code.

583 The City understands that the term "proceeds" includes "disposition
584 proceeds" as defined in the Treasury Regulations and, in the case of a refunding
585 bond, transferred proceeds (if any) and proceeds of the refunded bonds
586 expended prior to the date of the issuance of the Bonds. It is the understanding
587 of the City that these covenants are intended to assure compliance with the Code
588 and any regulations or rulings promulgated by the U.S. Department of the
589 Treasury pursuant to the Code. In the event that regulations or rulings are
590 hereafter promulgated which modify or expand provisions of the Code, as
591 applicable to the Bonds, the City will not be required to comply with any
592 covenant contained in this Section to the extent that the failure to comply, in the
593 opinion of nationally-recognized bond counsel, will not adversely affect the
594 exemption from federal income taxation of interest on the Bonds under section
595 103 of the Code. In the event that regulations or rulings are hereafter
596 promulgated which impose additional requirements which are applicable to the
597 Bonds, the City agrees to comply with the additional requirements to the extent
598 necessary, in the opinion of nationally-recognized bond counsel, to preserve the
599 exemption from federal income taxation of interest on the Bonds under section
600 103 of the Code. In furtherance of the foregoing, the Mayor, the City Manager,

601 any Assistant City Manager, the Chief Financial Officer of the City, any Deputy
602 Financial Officer of the City and the City Treasurer may execute any certificates
603 or other reports required by the Code and make such elections, on behalf of the
604 City, which may be permitted by the Code as are consistent with the purpose for
605 the issuance of the Bonds. In order to facilitate compliance with the above
606 clause (i), a "Rebate Fund" is established by the City for the sole benefit of the
607 United States of America, and the Rebate Fund shall not be subject to the claim
608 of any other person, including without limitation the registered owners of the
609 Bonds. The Rebate Fund is established for the additional purpose of compliance
610 with section 148 of the Code.

611 **SECTION 16A: DISPOSITION OF BOND-FINANCED**
612 **PROPERTY.**

613 The City covenants that the property constituting an improvement to the
614 City originally financed with the proceeds of the Refunded Obligations will not
615 be sold or otherwise disposed in a transaction resulting in the receipt by the City
616 of cash or other compensation, unless the City obtains an opinion of nationally-
617 recognized bond counsel substantially to the effect that the sale or other
618 disposition will not adversely affect the tax-exempt status of the Bonds or the
619 Refunded Obligations. The portion of the property comprising personal
620 property and disposed of in the ordinary course of business shall not be treated
621 as a transaction resulting in the receipt of cash or other compensation. The City
622 shall not be obligated to comply with this covenant if it obtains an opinion of
623 nationally-recognized bond counsel to the effect that the failure to comply will
624 not adversely affect the excludability for federal income tax purposes from gross
625 income of the interest on the Bonds.

626 **SECTION 17: AMENDMENT OF THIRTY-EIGHTH**
627 **SUPPLEMENT.**

628 (a) Required Owner Consent for Amendments. The owners of a
629 majority in Outstanding Principal Amount of the Bonds shall have the right from
630 time to time to approve any amendment to the Thirty-Eighth Supplement which
631 may be deemed necessary or desirable by the City; provided, however, nothing
632 contained in the Thirty-Eighth Supplement shall permit or be construed to
633 permit the amendment of the terms and conditions in the Thirty-Eighth
634 Supplement so as to:

- 635 (1) Make any change in the maturity of any of the Outstanding Bonds;
636 (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
637 (3) Reduce the amount of the principal payable on the Bonds;

- 638 (4) Modify the terms of payment of principal of, premium, if any, or
639 interest on the Outstanding Bonds or impose any conditions with
640 respect to such payment;
- 641 (5) Affect the rights of the owners of less than all of the Bonds then
642 Outstanding;
- 643 (6) Amend this subsection (a) of this Section; or
- 644 (7) Change the minimum percentage of the principal amount of Bonds
645 necessary for consent to any amendment;
- 646

647 unless such amendment or amendments be approved by the owners of all of the
648 Bonds affected by the change or amendment then Outstanding.

649 (b) Notice of Amendment Requiring Consent. If at any time the City
650 shall desire to amend the Thirty-Eighth Supplement under this Section, the City
651 shall cause notice of the proposed amendment to be published in a financial
652 newspaper or journal published in The City of New York, New York, and a
653 newspaper of general circulation in the City, once during each calendar week for
654 at least two successive calendar weeks. The notice shall briefly set forth the
655 nature of the proposed amendment and shall state that a copy of the notice is on
656 file with the Paying Agent/Registrar for the Bonds. Publication is not required,
657 however, if notice in writing is given by United States Mail, first class postage
658 prepaid, to each owner of the Bonds.

659 (c) Time Period for Obtaining Consent. If within one year from (i) the
660 date of the first publication of notice or (ii) the date of the mailing by the Paying
661 Agent/Registrar of written notice to the owners of the Bonds, whichever date
662 first occurs if both methods of giving notice are used, the City shall receive an
663 instrument or instruments executed by the owners of at least a majority in
664 Outstanding Principal Amount of the Bonds consenting to and approving such
665 amendment in substantially the form of the copy of such instrument on file with
666 each Paying Agent/Registrar, the governing body of the City may pass the
667 amendatory ordinance in substantially the same form.

668 (d) Revocation of Consent. Any consent given by the owner of a Bond
669 pursuant to the provisions of this Section shall be irrevocable for a period of six
670 months from the date for measuring the one year period to obtain consents noted
671 in paragraph (c) above, and shall be conclusive and binding upon all future
672 owners of the same Bonds during such period. At any time after six months
673 from the date for measuring the one year period to obtain consents noted in
674 paragraph (c) above, consent may be revoked by the owner who gave the
675 consent, or by a successor in title, by filing written notice with the Paying
676 Agent/Registrar for the Bonds and the City, but revocation shall not be effective
677 if the owners of at least a majority in Outstanding Principal Amount of the then

678 Outstanding Bonds as determined in accordance with this Section have, prior to
679 the attempted revocation, consented to and approved the amendment.

680 (e) Implementation of Amendment. Upon the passage of any
681 amendatory ordinance pursuant to the provisions of this Section, the Thirty-
682 Eighth Supplement shall be deemed to be amended, and the respective rights,
683 duties and obligations of the City under the Thirty-Eighth Supplement and all
684 the owners of then Outstanding Bonds shall be determined, exercised and
685 enforced in all respects in accordance with the amendment.

686 (f) Amendment without Consent. The preceding provisions of this
687 Section notwithstanding, the City by action of its governing body may amend
688 the Thirty-Eighth Supplement for any one or more of the following purposes:

689 (1) To add to the covenants and agreements of the City
690 contained in the Thirty-Eighth Supplement, other covenants and
691 agreements thereafter to be observed, grant additional rights or
692 remedies to the owners of the Bonds or to surrender, restrict or limit
693 any right or power reserved in the Thirty-Eighth Supplement to or
694 conferred upon the City;

695 (2) To make provision for the purpose of curing any
696 ambiguity, or curing, correcting or supplementing any defective
697 provision contained in the Thirty-Eighth Supplement, or in regard
698 to clarifying matters or questions arising under the Thirty-Eighth
699 Supplement, as are necessary or desirable and not contrary to or
700 inconsistent with the Thirty-Eighth Supplement and which shall not
701 adversely affect the interests of the owners of the Bonds then
702 Outstanding;

703 (3) To modify any of the provisions of the Thirty-Eighth
704 Supplement in any other respect whatever, provided that any
705 modification shall be, and be expressed to be, effective only after
706 all the Bonds outstanding at the date of the adoption of the
707 modification shall cease to be outstanding;

708 (4) To make amendments to the Thirty-Eighth Supplement as
709 may be required, in the opinion of Bond Counsel, to ensure
710 compliance with sections 103 and 141 through 150 of the Code and
711 the regulations promulgated under and applicable to those sections
712 and regulations;

713 (5) To make changes, modifications or amendments as may
714 be necessary or desirable to allow the owners of the Bonds to avail

715 themselves of a book-entry system for payments, transfers and
716 other matters relating to the Bonds, which changes, modifications
717 or amendments are not contrary to or inconsistent with other
718 provisions of the Thirty-Eighth Supplement and which shall not
719 adversely affect the interests of the owners of the Bonds;

720 (6) To make amendments to the Thirty-Eighth Supplement as
721 permitted by Section 21(e) of the Thirty-Eighth Supplement;

722 (7) To make changes, modifications or amendments as may
723 be necessary or desirable to obtain the approval of the Bonds from
724 the Attorney General of Texas, to obtain or maintain the granting of
725 a rating on the Bonds by a Rating Agency or to obtain or maintain a
726 Credit Agreement or a Credit Facility; and

727 (8) To make changes, modifications or amendments as may
728 be necessary or desirable, which shall not adversely affect the
729 interests of the owners of the Bonds, in order, to the extent
730 permitted by law, to facilitate the economic and practical utilization
731 of interest rate swap agreements, foreign currency exchange
732 agreements, or similar types of agreements with respect to the
733 Bonds.

734 Notice of an amendment may be published by the City in the manner described
735 in clause (b) of this Section; provided, however, that the publication of a notice
736 shall not constitute a condition precedent to the adoption of an amendatory
737 ordinance and the failure to publish a notice shall not adversely affect the
738 implementation of an amendment as adopted pursuant to the amendatory
739 ordinance.

740 (g) Ownership. For the purpose of this Section, the ownership and
741 other matters relating to all Bonds shall be established by the Security Register
742 maintained by the Paying Agent/Registrar. Furthermore, the owner of any
743 Bonds insured as to the payment of principal of and interest shall be deemed to
744 be the insurance company providing the insurance coverage on the Bonds;
745 provided, the amendment to the Thirty-Eighth Supplement is an amendment that
746 can be made with the consent of a majority in Outstanding Principal Amount of
747 the Bonds and the insurance company is not in default with respect to its
748 obligations under its insurance policy, if any.

749 **SECTION 18: FINAL DEPOSITS; GOVERNMENT**
750 **OBLIGATIONS.** All or any of the Bonds shall be deemed to be paid, retired
751 and no longer outstanding within the meaning of the Thirty-Eighth Supplement

752 when payment of the principal of, and redemption premium, if any, on the
753 Bonds, plus interest on the Bonds to the due date (whether the due date is by
754 reason of maturity or otherwise) either (i) shall have been made or caused to be
755 made in accordance with the terms of the Bonds, or (ii) shall have been provided
756 by irrevocably depositing with, or making available to, the Paying
757 Agent/Registrar, in trust and irrevocably set aside exclusively for this payment,
758 (1) money sufficient to make the payment or (2) Government Obligations,
759 certified by an independent public accounting firm of national reputation, to
760 mature as to principal and interest in amounts and at the times as will insure the
761 availability, without reinvestment, of sufficient money to make this payment,
762 and all necessary and proper fees, compensation and expenses of the Paying
763 Agent/Registrar with respect to which the deposit is made shall have been paid
764 or the payment provided for the satisfaction of the Paying Agent/Registrar.
765 Once a Bond shall be deemed to be paid under the Thirty-Eighth Supplement, it
766 shall no longer be secured by or entitled to the benefit of the Thirty-Eighth
767 Supplement, the Master Ordinance or a lien on and pledge of the Net Revenues
768 of the Water/Wastewater System, and shall be entitled to payment solely from
769 the money or Government Obligations.

770 Any moneys so deposited with the Paying Agent/Registrar, or an
771 authorized escrow agent, may at the direction of the City also be invested in
772 Government Obligations, maturing in the amounts and at the times as set forth in
773 this Section, and all income from all Government Obligations not required for
774 the payment of the Bonds, the redemption premium, if any, and interest on the
775 Bonds, with respect to which the money has been so deposited, shall be turned
776 over to the City or deposited as directed by the City. The City covenants that no
777 deposit will be made or accepted under clause (ii) of this Section and no use
778 made of any deposit which would cause the Bonds to be treated as arbitrage
779 bonds within the meaning of section 148 of the Code.

780 Notwithstanding any other provisions of the Thirty-Eighth Supplement,
781 all money or Government Obligations set aside and held in trust pursuant to the
782 provisions of this Section for the payment of the Bonds, the redemption
783 premium, if any, and interest on the Bonds, shall be applied to and used for the
784 payment of the Bonds, the redemption premium, if any, and interest on the
785 Bonds and the income on the money or Government Obligations shall not be
786 considered to be "Gross Revenues" under the Thirty-Eighth Supplement.

787 **SECTION 19: DAMAGED, MUTILATED, LOST, STOLEN, OR**
788 **DESTROYED BONDS.** In the event any Outstanding Bond is damaged,
789 mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be
790 printed, executed, and delivered, a new bond of the same principal amount,
791 maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed

792 Bond, in replacement for the Bond in the manner provided in this Section. An
793 application for the replacement of damaged, mutilated, lost, stolen, or destroyed
794 Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft,
795 or destruction of a Bond, the applicant for a replacement bond shall furnish to
796 the City and to the Paying Agent/Registrar security or indemnity as may be
797 required by them to save each of them harmless from any loss or damage with
798 respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the
799 applicant shall furnish to the City and to the Paying Agent/Registrar evidence to
800 their satisfaction of the loss, theft, or destruction of the Bond, as the case may
801 be. In every case of damage or mutilation of a Bond, the applicant shall
802 surrender to the Paying Agent/Registrar for cancellation the Bond so damaged
803 or mutilated. Prior to the issuance of any replacement bond, the Paying
804 Agent/Registrar shall charge the owner of the Bond with all legal, printing, and
805 other expenses in connection with this issuance. Every replacement bond issued
806 pursuant to the provisions of this Section by virtue of the fact that any Bond is
807 lost, stolen, or destroyed shall constitute a contractual obligation of the City
808 whether the lost, stolen, or destroyed Bond shall be found at any time, or be
809 enforceable by anyone, and shall be entitled to all the benefits of the Thirty-
810 Eighth Supplement equally and proportionately with any and all other Bonds
811 issued under the Thirty-Eighth Supplement.

812 Notwithstanding the preceding provisions of this Section, in the event any
813 Bond shall have matured, and no default has occurred which is then continuing
814 in the payment of the principal of, redemption premium, if any, or interest on the
815 Bond, the City may authorize the payment of the same (without surrender of the
816 Bond except in the case of a damaged or mutilated Bond) instead of issuing a
817 replacement Bond, provided security or indemnity is furnished as above
818 provided in this Section. Furthermore, in accordance with Chapter 1206
819 (specifically Section 1206.022), this Section shall constitute authority for the
820 issuance of any replacement bond without necessity of further action by the
821 governing body of the City or any other body or person, and the duty of the
822 replacement of Bonds is authorized and imposed upon the Paying
823 Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver
824 replacement bonds in the form and manner and with the effect, as provided in
825 Section 6 of the Thirty-Eighth Supplement for Bonds issued in exchange for
826 other Bonds.

827 **SECTION 20: THIRTY-EIGHTH SUPPLEMENT TO**
828 **CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of
829 the acceptance of the Bonds by the Holders from time to time, the Thirty-Eighth
830 Supplement shall be deemed to be and shall constitute a contract between the
831 City and the Holders from time to time of the Bonds and the pledge made in the

832 Thirty-Eighth Supplement by the City and the covenants and agreements set
833 forth in the Thirty-Eighth Supplement to be performed by the City shall be for
834 the equal and proportionate benefit, security, and protection of all Holders,
835 without preference, priority, or distinction as to security or otherwise of any of
836 the Bonds authorized under the Thirty-Eighth Supplement over any of the others
837 by reason of time of issuance, sale, or maturity or otherwise for any cause
838 whatsoever, except as expressly provided in or permitted by the Thirty-Eighth
839 Supplement.

840 SECTION 21: CONTINUING DISCLOSURE UNDERTAKING.

841 (a) Definitions. As used in this Section, the following terms have the
842 meanings ascribed below:

843 “MSRB” means the Municipal Securities Rulemaking Board.

844 “Rule” means SEC Rule 15c2-12, as amended from time to
845 time.

846 “SEC” means the United States Securities and Exchange
847 Commission.

848 (b) Annual Reports. The City shall provide annually to the MSRB (1)
849 within six months after the end of each fiscal year ending in or after 2022,
850 financial information and operating data with respect to the City of the general
851 type included in the final Official Statement and which is described in **Exhibit B**
852 to the Thirty-Eighth Supplement, and (2) if not provided as part of the financial
853 information and operating data, audited financial statements of the City, when
854 and if available. Any financial statements provided shall be prepared in
855 accordance with the accounting principles described in **Exhibit B** to the Thirty-
856 Eighth Supplement, or other accounting principles as the City may be required
857 to employ from time to time pursuant to state law or regulation, and audited, if
858 the City commissions an audit of the statements and the audit is completed
859 within twelve months after the end of each fiscal year ending in or after 2022. If
860 audited financial statements of the City are not available by the end of the 12
861 month period, the City will provide notice that the audited financial statements
862 are not available, and will provide unaudited financial statements by the end of
863 the 12 month period and audited financial statements for the applicable fiscal
864 year when and if the audited financial statements become available.

865 If the City changes its fiscal year, it will notify the MSRB of the change
866 (and of the date of the new fiscal year end) prior to the next date by which the
867 City otherwise would be required to provide financial information and operating
868 data pursuant to this Section.

869 The financial information and operating data to be provided pursuant to
870 this Section may be set forth in full in one or more documents or may be
871 included by specific reference to any document available to the public on the
872 MSRB's Internet Web site or filed with the SEC.

873 (c) Notice of Certain Events. The City shall provide notice of any of
874 the following events with respect to the Bonds to the MSRB in a timely manner
875 and not more than 10 Business Days after occurrence of the event:

- 876 (1) Principal and interest payment delinquencies;
- 877 (2) Non-payment related defaults, if material;
- 878 (3) Unscheduled draws on debt service reserves reflecting financial
879 difficulties;
- 880 (4) Unscheduled draws on credit enhancements reflecting financial
881 difficulties;
- 882 (5) Substitution of credit or liquidity providers, or their failure to
883 perform;
- 884 (6) Adverse tax opinions, the issuance by the Internal Revenue Service
885 of proposed or final determinations of taxability, Notices of
886 Proposed Issue (IRS Form 5701-TEB), or other material notices or
887 determinations with respect to the tax status of the Bonds, or other
888 material events affecting the tax status of the Bonds;
- 889 (7) Modifications to rights of holders of the Bonds, if material;
- 890 (8) Bond calls, if material, and tender offers;
- 891 (9) Defeasances;
- 892 (10) Release, substitution, or sale of property securing repayment of the
893 Bonds, if material;
- 894 (11) Rating changes;
- 895 (12) Bankruptcy, insolvency, receivership, or similar event of the City,
896 which shall occur as described below;
- 897 (13) The consummation of a merger, consolidation, or acquisition
898 involving the City or the sale of all or substantially all of its assets,
899 other than in the ordinary course of business, the entry into a
900 definitive agreement to undertake such an action or the termination
901 of a definitive agreement relating to any such actions, other than
902 pursuant to its terms, if material;
- 903 (14) Appointment of a successor or additional paying agent/registrar or
904 the change of name of a paying agent/registrar, if material;
- 905 (15) Incurrence of a Financial Obligation of the Obligated Person, if
906 material, or agreement to covenants, events of default, remedies,
907 priority rights, or other similar terms of a Financial Obligation of

908 the Obligated Person, any of which affect security holders, if
909 material; and
910 (16) Default, event of acceleration, termination event, modification of
911 terms, or other similar event under the terms of a Financial
912 Obligation of the Obligated Person, and which reflect financial
913 difficulties.
914

915 The City shall notify the MSRB, in a timely manner, of any failure by the City
916 to provide financial information or operating data in accordance with this
917 Section by the time required by this Section.
918

919 For these purposes, any event described in the immediately preceding
920 paragraph 12 is considered to occur when any of the following occur: the
921 appointment of a receiver, fiscal agent, or similar officer for the City in a
922 proceeding under the United States Bankruptcy Code or in any other proceeding
923 under state or federal law in which a court or governmental authority has
924 assumed jurisdiction over substantially all of the assets or business of the City,
925 or if jurisdiction has been assumed by leaving the existing governing body and
926 officials or officers in possession but subject to the supervision and orders of a
927 court or governmental authority, or the entry of an order confirming a plan of
928 reorganization, arrangement, or liquidation by a court or governmental authority
929 having supervision or jurisdiction over substantially all of the assets or business
930 of the City.
931

932 As used in paragraphs 15 and 16 above, the term "Financial Obligation"
933 means: (i) a debt obligation; (ii) a derivative instrument entered into in
934 connection with, or pledged as security or a source of payment for, an existing
935 or planned debt obligation; or (iii) a guarantee of (i) or (ii), however, the term
936 Financial Obligation shall not include Municipal Securities as to which a final
937 official statement has been provided to the MSRB consistent with the Rule; the
938 term "Municipal Securities" means securities which are direct obligations of, or
939 obligations guaranteed as to principal or interest by, a state or any political
940 subdivision thereof, or any agency or instrumentality of a state or any political
941 subdivision thereof, or any municipal corporate instrumentality of one or more
942 states and any other Municipal Securities described by Section 3(a)(29) of the
943 Securities Exchange Act of 1934, as the same may be amended from time to
944 time; and the term "Obligated Person" means the City.
945

946 The City shall notify the MSRB, in a timely manner, of any failure by the
947 City to provide financial information or operating data in accordance with this
948 Section by the time required by this Section.

949 (d) Filings with the MSRB. All financial information, operating data,
950 financial statements, notices, and other documents provided to the MSRB in
951 accordance with this Section shall be provided in an electronic format prescribed
952 by the MSRB and shall be accompanied by identifying information as
953 prescribed by the MSRB.

954 (e) Limitations, Disclaimers, and Amendments. The City shall be
955 obligated to observe and perform the covenants specified in this Section with
956 respect to the City and the Bonds while, but only while, the City remains an
957 “obligated person” with respect to the Bonds within the meaning of the Rule,
958 except that the City in any event will give the notice required by subsection (c)
959 of this Section of any Bond calls and defeasance that cause the City to be no
960 longer such an “obligated person.”

961 The provisions of this Section are for the sole benefit of the Holders and
962 beneficial owners of the Bonds, and nothing in this Section, express or implied,
963 shall give any benefit or any legal or equitable right, remedy, or claim to any
964 other person. The City undertakes to provide only the financial information,
965 operating data, financial statements, and notices which it has expressly agreed to
966 provide pursuant to this Section and does not undertake to provide any other
967 information that may be relevant or material to a complete presentation of the
968 financial results, condition, or prospects of the City or the State of Texas or
969 undertake to update any information provided in accordance with this Section or
970 otherwise, except as expressly provided in this Section. The City does not make
971 any representation or warranty concerning the information or its usefulness to a
972 decision to invest in or sell Bonds at any future date.

973 **UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO**
974 **THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY**
975 **OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES**
976 **RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE**
977 **CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF**
978 **ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT**
979 **AND REMEDY OF ANY PERSON, IN CONTRACT OR TORT, FOR OR ON**
980 **ACCOUNT OF ANY BREACH SHALL BE LIMITED TO AN ACTION FOR**
981 **MANDAMUS OR SPECIFIC PERFORMANCE.**

982 No default by the City in observing or performing its obligations under
983 this Section shall constitute a breach of or default under the Thirty-Eighth
984 Supplement for purposes of any other provision of the Thirty-Eighth
985 Supplement.

986 Nothing in this Section is intended or shall act to disclaim, waive, or
987 otherwise limit the duties of the City under federal and state securities laws.

988 Should the Rule be amended to obligate the City to make filings with or
989 provide notices to entities other than the MSRB, the City agrees to undertake the
990 obligation in accordance with the Rule as amended.

991 Notwithstanding any provisions in the Thirty-Eighth Supplement to the
992 contrary, the provisions of this Section may be amended by the City from time
993 to time to adapt to changed circumstances resulting from a change in legal
994 requirements, a change in law, or a change in the identity, nature, status, or type
995 of operations of the City, but only if (1) the provisions of this Section, as so
996 amended, would have permitted an underwriter to purchase or sell Bonds in the
997 primary offering of the Bonds in compliance with the Rule, taking into account
998 any amendments or interpretations of the Rule to the date of the amendment, as
999 well as the changed circumstances, and (2) either (a) the Holders of a majority in
1000 aggregate principal amount (or any greater amount required by any other
1001 provision of the Thirty-Eighth Supplement that authorizes the amendment) of
1002 the Outstanding Bonds consent to the amendment or (b) a Person that is
1003 unaffiliated with the City and the State of Texas (such as nationally recognized
1004 bond counsel) determines that the amendment will not materially impair the
1005 interests of the Holders and beneficial owners of the Bonds. The provisions of
1006 this Section may also be amended from time to time or repealed by the City if
1007 the SEC amends or repeals the applicable provisions of the Rule or a court of
1008 final jurisdiction determines that the provisions are invalid, but only if and to the
1009 extent that reservation of the City's right to do so would not prevent
1010 underwriters of the initial public offering of the Bonds from lawfully purchasing
1011 or selling Bonds in the offering. If the City so amends the provisions of this
1012 Section, it shall include with any amended financial information or operating
1013 data next provided in accordance with subsection (b) an explanation, in narrative
1014 form, of the reasons for the amendment and of the impact of any change in the
1015 type of financial information or operating data so provided.

1016 **SECTION 22: REMEDY IN EVENT OF DEFAULT.** In addition to all
1017 rights and remedies provided by the laws of the State of Texas, the City
1018 covenants and agrees particularly that in the event the City (a) defaults in
1019 payments to be made to the Debt Service Fund as required by the Thirty-Eighth
1020 Supplement or the Master Ordinance, (b) defaults in the observance or
1021 performance of any other of the covenants, conditions or obligations set forth in
1022 the Thirty-Eighth Supplement or the Master Ordinance or (c) the City declares
1023 bankruptcy, the Holders of any of the Bonds shall be entitled to a writ of
1024 mandamus issued by a court of proper jurisdiction, compelling and requiring the
1025 City and its officers to observe and perform any covenant, condition or

1026 obligation prescribed in the Thirty-Eighth Supplement or the Master Ordinance.
1027 No delay or omission to exercise any right or power accruing upon any default
1028 shall impair any such right or power, or shall be construed to be a waiver of any
1029 such default or acquiescence in such default, and every such right and power
1030 may be exercised from time to time and as often as may be deemed expedient.

1031 The specific remedy provided in this Section shall be cumulative of all
1032 other existing remedies and the specification of such remedy shall not be
1033 deemed to be exclusive.

1034 SECTION 23: SALE OF BONDS; OFFICIAL STATEMENT

1035 **APPROVAL.** The Bonds are to be sold by the City to the Underwriters in
1036 accordance with the Bond Purchase Agreement. The terms and provisions of
1037 the Bond Purchase Agreement are to be determined by the Pricing Officer, in
1038 accordance with Sections 3 and 4 of the Thirty-Eighth Supplement. With regard
1039 to the terms and provisions of the Bond Purchase Agreement, the Pricing Officer
1040 may come to an agreement with the Underwriters on the following, among other
1041 matters:

- 1042 (1) The details of the purchase and sale of the Bonds;
- 1043 (2) The details of the public offering of the Bonds by the Underwriters;
- 1044 (3) The details of an Official Statement (and, if appropriate, any
1045 Preliminary Official Statement) relating to the Bonds and the City's
1046 compliance with the Rule;
- 1047 (4) A security deposit for the Bonds;
- 1048 (5) The representations and warranties of the City to the Underwriters;
- 1049 (6) The details of the delivery of, and payment for, the Bonds;
- 1050 (7) The Underwriters' obligations under the Bond Purchase
1051 Agreement;
- 1052 (8) The certain conditions to the obligations of the City under the Bond
1053 Purchase Agreement;
- 1054 (9) Termination of the Bond Purchase Agreement;
- 1055 (10) Particular covenants of the City;
- 1056 (11) The survival of representations made in the Bond Purchase
1057 Agreement;
- 1058 (12) The payment of any expenses relating to the Bond Purchase
1059 Agreement;
- 1060 (13) Notices; and
- 1061 (14) Any and all such other details that are found by the Pricing Officer
1062 to be necessary and advisable for the purchase and sale of the
1063 Bonds.

1064 The Pricing Officer may execute the Bond Purchase Agreement for and
1065 on behalf of the City and as the act and deed of council.

1066 The Mayor and City Clerk of the City may manually or electronically
1067 execute and deliver for and on behalf of the City copies of a Preliminary Official
1068 Statement and Official Statement, prepared in connection with the offering of
1069 the Bonds by the Underwriters, in final form as may be required by the
1070 Underwriters, and the final Official Statement in the form and content as
1071 approved by the Pricing Officer or as manually or electronically executed by the
1072 City officials shall be deemed to be approved by council and constitute the
1073 Official Statement authorized for distribution and use by the Underwriters.

1074 **SECTION 24: ESCROW AGREEMENT.** An “Escrow Agreement”
1075 (the “Escrow Agreement”) by and between the City and U.S. Bank National
1076 Association (the “Escrow Agent”), if an agreement is required in connection
1077 with the issuance of the Bonds, substantially in the form of escrow agreements
1078 previously approved by council in connection with the refunding of outstanding
1079 obligations, is approved. The Escrow Agreement is authorized to be finalized
1080 and executed by the Pricing Officer for and on behalf of the City and as the act
1081 and deed of council; and the Escrow Agreement as executed by the Pricing
1082 Officer shall be deemed approved by the council and constitute the Escrow
1083 Agreement approved by the Thirty-Eighth Supplement. With regard to the
1084 finalization of certain terms and provisions of the Escrow Agreement, a Pricing
1085 Officer is authorized to come to an agreement with the Escrow Agent on the
1086 following details, among other matters:

- 1087 (a) The identification of the Refunded Bonds;
- 1088 (b) The creation and funding of the Escrow Fund or Funds; and
- 1089 (c) The Escrow Agent’s compensation, administration of the Escrow
1090 Fund or Funds, and the settlement of any paying agents’ charges relating to the
1091 Refunded Bonds.

1092 Furthermore, appropriate officials of the City in cooperation with the
1093 Escrow Agent are authorized and directed to make the necessary arrangements
1094 for the purchase of the escrowed securities referenced in the Escrow Agreement
1095 and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds
1096 to the Purchasers for deposit to the credit of the “CITY OF AUSTIN, TEXAS,
1097 WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS,
1098 SERIES 2021 ESCROW FUND” (referred to as the “Escrow Fund”), all as
1099 contemplated and provided in Chapter 1207, the Thirty-Eighth Supplement, the
1100 Bond Purchase Agreement, and the Escrow Agreement.

1101 If required by law, the Pricing Officer shall not execute the Escrow
1102 Agreement unless the Escrow Agent has confirmed to the Pricing Officer that it
1103 has made disclosure filings to the Texas Ethics Commission in accordance with
1104 Section 2252.908, Texas Government Code. Within 30 days of receipt of the
1105 disclosure filings from the Escrow Agent, the City will submit a copy of the
1106 disclosure filings to the Texas Ethics Commission.

1107 On or immediately prior to the date of the delivery of the Bonds to the
1108 Underwriters, the Pricing Officer shall also cause to be deposited (and is
1109 authorized to cause to be deposited) with the Escrow Agent from moneys on
1110 deposit in the debt service fund(s) maintained for the payment of the Refunded
1111 Bonds an amount which, together with the proceeds of sale, and the investment
1112 earnings thereon, will be sufficient to pay in full the Refunded Bonds (or the
1113 amount of accrued interest due thereon) scheduled to mature and authorized to
1114 be redeemed on the earliest date established in the Bond Purchase Agreement
1115 for the redemption of any of the Refunded Bonds (or the earliest date of
1116 payment, to be made from moneys in the Escrow Fund(s), as established in the
1117 Bond Purchase Agreement, of the amount of accrued interest due thereon).

1118 **SECTION 25: REFUNDED BONDS.** (a) In order to provide for the
1119 refunding, discharge, and retirement of the Refunded Bonds, the Refunded
1120 Bonds, identified, described, and in the amounts set forth in the Bond Purchase
1121 Agreement, are called for redemption on the first date(s) the Refunded Bonds
1122 are subject to redemption or such other date specified by the Pricing Officer in
1123 the Bond Purchase Agreement at the price of par plus accrued interest to the
1124 redemption dates, and notice of any redemption shall be given in accordance
1125 with the applicable provisions of the ordinance(s) adopted by council, which
1126 authorized the issuance of the Refunded Bonds. The Pricing Officer is
1127 authorized and directed to issue or cause to be issued a Notice of Redemption
1128 for each series of the Refunded Bonds in substantially the form(s) required by
1129 the ordinance(s) which authorized the issuance of the Refunded Bonds, to each
1130 and every paying agent/registrar for Refunded Bonds, in accordance with the
1131 redemption provisions applicable to each series of the Refunded Bonds.

1132 (b) Each paying agent/registrar for Refunded Bonds is directed to
1133 provide the appropriate notice(s) of redemption as required by the respective
1134 ordinances authorizing the Refunded Bonds and is directed to make appropriate
1135 arrangements so that the Refunded Bonds may be redeemed on the redemption
1136 date.

1137 (c) The source of funds for payment of the principal of and interest on
1138 the Refunded Bonds on their respective maturity or redemption dates shall be
1139 from the funds deposited with the Escrow Agent or the paying agent/registrar for

1140 the Refunded Bonds pursuant to the provisions of Chapter 1207, the Thirty-
1141 Eighth Supplement and the Bond Purchase Agreement.

1142 **SECTION 26: CONTROL AND CUSTODY OF BONDS.** The City
1143 Manager of the City shall be and is authorized to take and have charge of all
1144 necessary orders and records pending the sale of the Bonds, and shall take and
1145 have charge and control of the Initial Bond(s) pending the approval thereof by
1146 the Attorney General, the registration thereof by the Comptroller of Public
1147 Accounts and the delivery thereof to the Underwriters.

1148 Furthermore, the Mayor, Mayor Pro Tem, City Manager, any Assistant
1149 City Manager, Chief Financial Officer, any Deputy Financial Officer, City
1150 Clerk, City Treasurer and City Attorney, any one or more of these officials, are
1151 authorized and directed to furnish and execute any documents relating to the
1152 City and its financial affairs as may be necessary for the sale of the Bonds, the
1153 approval of the Attorney General and registration by the Comptroller of Public
1154 Accounts and, together with the City’s financial advisor, bond counsel and the
1155 Paying Agent/Registrar, make the necessary arrangements for their delivery to
1156 the Underwriters following the sale.

1157 **SECTION 27: PROCEEDS OF SALE.** Immediately following the
1158 delivery of the Bonds, the proceeds of sale (less those proceeds of sale
1159 designated to pay costs of issuance and any accrued interest received from the
1160 Underwriters) shall be deposited with (i) U.S. Bank National Association (the
1161 “Deposit Agent”) for the payment and discharge of the Refunded Notes, or (ii)
1162 the Escrow Agent for the payment and redemption of the Refunded Bonds. The
1163 proceeds of sale of the Bonds not so deposited with the Escrow Agent for the
1164 refunding of the Refunded Bonds or with the Deposit Agent for the refunding of
1165 the Refunded Notes shall be disbursed for payment of costs of issuance, or
1166 deposited in the Debt Service Fund for the Bonds, all in accordance with written
1167 instructions from the City or its financial advisor. Accrued interest, if any,
1168 received from the Underwriters shall be deposited to the credit of the Debt
1169 Service Fund, and premium, if any, received from the Underwriters as part of
1170 the purchase price of the Bonds shall be used in a manner consistent with
1171 Chapter 1201 (specifically Section 1201.041(d)).

1172 Furthermore, appropriate officials of the City in cooperation with the
1173 Deposit Agent and the Escrow Agent, as applicable, are authorized and directed
1174 to make the necessary arrangements for the deposit of funds for the payment of
1175 the Refunded Obligations, all as contemplated and provided in Chapter 1207 and
1176 the Thirty-Eighth Supplement.

1177 Additionally, the Pricing Officer shall determine the amount of any City
1178 contribution to the refunding from moneys on deposit in the interest and sinking
1179 fund(s) or reserve fund(s) maintained for the payment of the applicable
1180 Refunded Obligations.

1181 **SECTION 28: LEGAL OPINION.** The obligation of the Underwriters
1182 to accept delivery of the Bonds is subject to being furnished a final opinion of
1183 McCall, Parkhurst & Horton L.L.P., approving the Bonds as to their validity, the
1184 opinion to be dated and delivered as of the date of initial delivery and payment
1185 for the Bonds. A true and correct reproduction of the opinion is authorized to be
1186 printed on the definitive Bonds or an executed counterpart of the opinion shall
1187 accompany the global Bonds deposited with DTC.

1188 **SECTION 29: CUSIP NUMBERS.** CUSIP numbers may be printed or
1189 typed on the definitive Bonds. It is expressly provided, however, that the
1190 presence or absence of CUSIP numbers on the definitive Bonds shall be of no
1191 significance or effect as regards the legality thereof and neither the City nor
1192 attorneys approving the Bonds as to legality are to be held responsible for
1193 CUSIP numbers incorrectly printed or typed on the definitive Bonds.

1194 **SECTION 30: PAYMENT AND PERFORMANCE ON BUSINESS**
1195 **DAYS.** Whenever under the terms of the Thirty-Eighth Supplement or the
1196 Bonds, the performance date of any provision of the Thirty-Eighth Supplement
1197 or the Bonds, including the payment of principal of or interest on the Bonds,
1198 shall occur on a day other than a Business Day, then performance, including the
1199 payment of principal of and interest on the Bonds, need not be made on that day
1200 but may be performed or paid, as the case may be, on the next succeeding
1201 Business Day with the same force and effect as if made on the date of
1202 performance or payment.

1203 **SECTION 31: LIMITATION OF BENEFITS WITH RESPECT TO**
1204 **THE THIRTY-EIGHTH SUPPLEMENT.** With the exception of the rights or
1205 benefits expressly conferred in the Thirty-Eighth Supplement, nothing expressed
1206 or contained in the Thirty-Eighth Supplement or implied from the provisions of
1207 the Thirty-Eighth Supplement or the Bonds is intended or should be construed to
1208 confer upon or give to any person other than the City, the Holders, and the
1209 Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or
1210 by reason of or in respect to the Thirty-Eighth Supplement or any covenant,
1211 condition, stipulation, promise, agreement, or provision contained in the Thirty-
1212 Eighth Supplement. The Thirty-Eighth Supplement and all of the covenants,
1213 conditions, stipulations, promises, agreements, and provisions of the Thirty-
1214 Eighth Supplement are intended to be and shall be for and inure to the sole and

1215 exclusive benefit of the City, the Holders, and the Paying Agent/Registrar as
1216 provided in the Thirty-Eighth Supplement and in the Bonds.

1217 **SECTION 32: NOTICES TO HOLDERS - WAIVER.** Wherever the
1218 Thirty-Eighth Supplement provides for notice to Holders of any event, the notice
1219 shall be sufficiently given (unless otherwise expressly provided in the Thirty-
1220 Eighth Supplement) if in writing and sent by United States Mail, first class
1221 postage prepaid, to the address of each Holder appearing in the Security Register
1222 at the close of business on the Business Day next preceding the mailing of the
1223 notice.

1224 In any case where notice to Holders is given by mail, neither the failure to
1225 mail the notice to any particular Holders nor any defect in any notice so mailed
1226 shall affect the sufficiency of the notice with respect to all other Bonds. Where
1227 the Thirty-Eighth Supplement provides for notice in any manner, the notice may
1228 be waived in writing by the Holder entitled to receive the notice, either before or
1229 after the event with respect to which notice is given, and the waiver shall be the
1230 equivalent of the notice. Waivers of notice by Holders shall be filed with the
1231 Paying Agent/Registrar, but a filing shall not be a condition precedent to the
1232 validity of any action taken in reliance upon the waiver.

1233 **SECTION 33: GOVERNING LAW.** The Thirty-Eighth Supplement
1234 shall be construed and enforced in accordance with the laws of the State of
1235 Texas and the United States of America.

1236 **SECTION 34: EFFECT OF HEADINGS.** The Section headings in the
1237 Thirty-Eighth Supplement are for convenience of reference only and shall not
1238 affect the construction of the Thirty-Eighth Supplement.

1239 **SECTION 35: CONSTRUCTION OF TERMS.** If appropriate in the
1240 context of the Thirty-Eighth Supplement, words of the singular number shall be
1241 considered to include the plural, words of the plural number shall be considered
1242 to include the singular, and words of the masculine, feminine or neuter gender
1243 shall be considered to include the other genders. References to any named
1244 person shall mean that person and his or her successors and assigns. References
1245 to any office shall include the person holding the office in an interim or
1246 permanent capacity. References to any constitutional, statutory or regulatory
1247 provision means the provision as it exists on the date the Thirty-Eighth
1248 Supplement is adopted by council. Any reference to the payment of principal in
1249 the Thirty-Eighth Supplement shall include the payment of any mandatory
1250 sinking fund redemption payments as described in the Thirty-Eighth
1251 Supplement. Any reference to "FORM OF BOND" refers to the form of the
1252 Bonds in **Exhibit A** to the Thirty-Eighth Supplement.

1253 **SECTION 36: SEVERABILITY.** If any provision of the Thirty-Eighth
1254 Supplement or its application to any circumstance shall be held to be invalid, the
1255 remainder of the Thirty-Eighth Supplement and its application to other
1256 circumstances shall nevertheless be valid, and council declares that the Thirty-
1257 Eighth Supplement would have been enacted without such invalid provision.

1258 **SECTION 37: INSURANCE.** The Bonds may but are not required to
1259 be sold with the principal of and interest being insured by a qualified municipal
1260 bond insurance provider. The Pricing Officer is authorized to make the
1261 selection of municipal bond insurance (if any) for the Bonds and to determine
1262 the provisions of any commitment for the municipal bond insurance. The
1263 Pricing Officer is authorized to execute any agreement with a qualified
1264 municipal bond insurance provider in connection with obtaining municipal bond
1265 insurance. In addition, if municipal bond insurance is obtained, the City will
1266 comply with the conditions applicable to the Bonds as set forth in the
1267 commitment or agreement entered into with the provider, as if the conditions
1268 were incorporated in the Thirty-Eighth Supplement.

1269 **SECTION 38: SECTION 2252.908, TEXAS GOVERNMENT CODE.**
1270 The City shall not execute the Bond Purchase Agreement, the Paying Agency
1271 Agreement or the Note Paying Agent Agreement unless the each of the parties
1272 has confirmed to an Authorized Representative that either it (i) has made
1273 disclosure filings to the Texas Ethics Commission in accordance with Section
1274 2252.908, Texas Government Code or (ii) is exempt from making filings under
1275 Section 2252.908(c)(4), Texas Government Code. If clause (i) of this Section
1276 41 applies to any party, within 30 days of receipt of any such disclosure filing
1277 the filing will be acknowledged by the City in accordance with the rules of the
1278 Texas Ethics Commission.

1279 **SECTION 39: PUBLIC MEETING.** It is officially found that the
1280 meeting at which the Thirty-Eighth Supplement is adopted was open to the
1281 public and public notice of the time, place, and subject matter of the public
1282 business to be considered at such meeting, including the Thirty-Eighth
1283 Supplement, was given; all as required by Chapter 551.

1284 **SECTION 40: EFFECTIVE DATE.** This Thirty-Eighth Supplement is
1285 passed on one reading as authorized by Chapter 1201 (specifically Section
1286 1201.028), and shall be effective immediately upon its passage and adoption.

1287
1288 [Execution Page Follows]

PASSED AND APPROVED
October 14, 2021

CITY OF AUSTIN, TEXAS

STEVE ADLER
Mayor

ATTEST:

JANNETTE S. GOODALL
City Clerk

APPROVED:

DEBORAH THOMAS
Acting City Attorney

(City Seal)

SCHEDULE I

SCHEDULE OF REFUNDED BONDS

City of Austin, Texas Water and Wastewater System Revenue Refunding Bonds, Series 2011, bonds maturing on November 15 in each of the years 2022 through 2033, inclusive, and on November 15 in each of the years 2036 and 2041, aggregating \$189,970,000 in principal amount; Redemption Date: November 15, 2021; Redemption Price: par plus accrued interest to the Redemption Date.

DRAFT

EXHIBIT A

FORM OF BOND

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AUSTIN, TEXAS,
WATER AND WASTEWATER SYSTEM
REVENUE REFUNDING BOND, SERIES 2021

Date of Initial Delivery Interest Rate Stated Maturity CUSIP No.
November __, 2021 _____ _____ _____

Registered Owner:

Principal Amount: _____ Dollars

The City of Austin (the "City"), a body corporate and municipal corporation in the Counties of Travis, Williamson and Hays, State of Texas, for value received promises to pay to the registered owner named above, or their registered assigns (the "Registered Owner"), solely from the revenues identified in this Bond, on the Stated Maturity date specified above the Principal Amount stated above (or so much of the Principal Amount as shall not have been paid upon prior redemption), and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid Principal Amount of this Bond from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the Date of Initial Delivery at the per annum rate of interest specified above); such interest being payable on May 15, 2022, and on each succeeding November 15 and May 15 until maturity or prior redemption.

Principal of this Bond is payable at its Stated Maturity or redemption to the Registered Owner, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing on this Bond, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount of this Bond may be accomplished without presentation and surrender of this Bond. Interest is payable to the Registered Owner of this Bond (or one or more Predecessor Bonds, as defined in the Thirty-

Eighth Supplemental Ordinance to the Master Ordinance (the "Thirty-Eighth Supplement")) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/ Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner of this Bond and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond, dated as of September 25, 2021, is one of the series specified in its title, issued in the aggregate principal amount of \$_____,000 (the "Bonds") for the purpose of refinancing and refunding the Refunded Obligations (identified and defined in the Thirty-Eighth Supplement), in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Government Code, Chapter 1207, and pursuant to a Master Ordinance and the Thirty-Eighth Supplement adopted by the City Council of the City (collectively referred to as the "Ordinances").

The Bonds maturing on and after November 15, 2032, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on November 15, 2031, or on any date thereafter at the redemption price of par plus accrued interest thereon to the redemption date.

The Bonds maturing on November 15 in the years 20__ and 20__ (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Debt Service Fund established and maintained for the payment of the Bonds in the Master Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds Maturing November 15, 20

Term Bonds Maturing November 15, 20

Redemption Date

Principal Amount (\$)

Redemption Date

Principal Amount (\$)

*Stated maturity

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least fifty days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not previously credited against a mandatory redemption requirement.

Not less than thirty days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinances. If a Bond (or any portion of its principal sum) shall have been called for redemption and notice of such redemption given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinances for the then unredeemed balance of the principal sum of such Bond or Bonds will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within

forty-five days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless the Paying Agent/Registrar has received funds sufficient to pay the principal and premium, if any, and interest on the Bonds to be redeemed before giving of a notice of redemption, the notice may state the City may condition redemption on the receipt of such funds by the Paying Agent/Registrar on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a notice of conditional redemption is given and such prerequisites to the redemption and sufficient funds are not received, the notice shall be of no force and effect, the City shall not redeem the Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of conditional redemption was given, that the Bonds have not been redeemed.

The Bonds are special obligations of the City payable solely from and, together with the Prior Subordinate Lien Obligations and the Previously Issued Parity Water/Wastewater Obligations currently Outstanding, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the Water/Wastewater System in the manner provided in the Ordinances. Additionally, the Bonds and Previously Issued Parity Water/Wastewater Obligations referenced above shall be equally and ratably secured by a parity lien on the funds, if any, deposited to the credit of the Debt Service Fund in accordance with the terms of the Ordinances. **THE BONDS ARE NOT SECURED BY A LIEN ON THE RESERVE FUND ESTABLISHED FOR THE BENEFIT OF CERTAIN OF THE PREVIOUSLY ISSUED PARITY WATER/WASTEWATER OBLIGATIONS, AND THE THIRTY-EIGHTH SUPPLEMENT DOES NOT REQUIRE THE CITY TO FUND THE RESERVE FUND FOR THE BENEFIT OF THE HOLDERS OF THE BONDS.** The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the Water/Wastewater System, except with respect to the Net Revenues. The Holder of this Bond shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the related terms and conditions, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Net Revenues of the Water/Wastewater System, in the same manner and to the same extent as the Bonds.

Reference is made to the Ordinances, copies of which are on file with the Paying Agent/Registrar, and to all of the provisions of which the Holder by the

acceptance of this Bond assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the properties constituting the Water/Wastewater System; the Net Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinances may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made in the Ordinances may be discharged at or prior to the maturity of this Bond, and this Bond deemed to be no longer Outstanding under the Ordinances; and for the other terms and provisions contained in the Ordinances. Capitalized terms used in this Bond have the same meanings assigned in the Ordinances.

This Bond, subject to certain limitations contained in the Ordinances, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar executed by the Registered Owner, or the authorized agent of the Registered Owner. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the Registered Owner of this Bond whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest on this Bond, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal of this Bond at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on a scheduled payment date and for thirty days after such event, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each

Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is certified, recited, represented and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinances; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Net Revenues of the Water/Wastewater System. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired. The terms and provisions of this Bond and the Ordinances shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be executed under the official seal of the City.

CITY OF AUSTIN, TEXAS

Steve Adler
Mayor, City of Austin, Texas

COUNTERSIGNED:

Jannette S. Goodall
City Clerk, City of Austin, Texas

(SEAL)

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinances; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Houston, Texas is the Designated Payment/Transfer Office for this Bond.

U.S. Bank, N.A., as Paying
Agent/Registrar

Registration date:

By: _____
Authorized Signature

DRAFT

FORM OF ASSIGNMENT.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee):

(Social Security or other identifying number (_____))
the within Bond and all rights under this Bond, and irrevocably constitutes and appoints

attorney to transfer the within Bond on the books kept for registration of the Bonds, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

The Initial Bond shall be in the form set forth above, except that the form of the single fully registered Initial Bond shall be modified as follows:

- (i) immediately under the name of the bond the headings "Date of Initial Delivery", "Interest Rate", "Stated Maturity" and "Cusip No." shall be omitted; and
- (ii) Paragraph one shall read as follows:

Registered Owner:

Principal Amount: _____ Dollars

Date of Initial Delivery: November __, 2021

THE CITY OF AUSTIN, IN TRAVIS, WILLIAMSON AND HAYS COUNTIES, TEXAS (the "City") promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on November 15 in each of the years and in principal installments in accordance with the following schedule:

<u>Maturity Date</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
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and to pay interest thereon from the date of initial delivery specified above, on May 15, 2022, and semiannually on each November 15 and May 15 thereafter to the maturity date specified above, or to the date of redemption prior to maturity, at the interest rate per annum specified above. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Exhibit B

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of the Thirty-Eighth Supplement.

Annual Financial Information and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with Section 21 are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

The quantitative financial information and operating data with respect to the City within: (i) Tables One through Thirteen in the main text of the Official Statement; (ii) “ELECTRIC UTILITY SYSTEM – Customer Base – Average Monthly Number of Customers”; (iii) “ELECTRIC UTILITY SYSTEM – Fuel Supply”; (iv) “CUSTOMER RATES – Typical Residential Electric Bills of Large Texas Cities”; (v) Austin Energy’s approved rate schedules incorporated by reference into the Official Statement as described in “CUSTOMER STATISTICS – Electric Rates”; (vi) “CUSTOMER STATISTICS – GreenChoice Energy Rider”; (vii) “COMPARATIVE ANALYSIS OF ELECTRIC UTILITY SYSTEM AND WATER AND WASTEWATER SYSTEM OPERATIONS”, (viii) “OPERATING STATEMENT ELECTRIC UTILITY SYSTEM AND WATER AND WASTEWATER SYSTEM”; (ix) the table of annual results of the City’s annexations in “THE CITY – Annexation Program”; and (x) “INVESTMENTS – Current Investments”.

The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.

Accounting Principles

The accounting principles referred to in Section 21 are the accounting principles described in the notes to the financial statements referred to in the third paragraph under the heading "Annual Financial Statements and Operating Data" above.